Supreme Court, U.S.
FILED
JAN 21 2002
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No. 011177

In the
Supreme Court of the United States
October Term 2002

Joseph R. Caterina, Frances H. Caterina, Emmett Caterina and Clara Caterina,

Petitioners,

v.

Unified Judicial System of The Commonwealth of Pennsylvania & Related Parties; Lackawanna Co. Redevelopment Authority; PA General State Authority; Blakely Borough et al,

Respondents.

On Petition For Writ of Certiorari To The United States Court of Appeals For the Third Circuit

PETITION FOR A WRIT OF CERTIORARI SUPPLEMENT

Joseph R. Caterina,
Frances H. Caterina,
Emmett Caterina,
Clara Caterina;
All In Pro Se

c/o 202 Kenyon Drive
Peckville, Pa. 18452
(570) 489-8741
(570) 489-6322

January 21, 2002 # 2

18 pp
f/o

QUESTIONS PRESENTED FOR REVIEW

3) Did the U.S.C.A., 3rd Cir. create a conflict of law, by ruling in direct opposition to the U.S.C.A., 10th Cir., so as to create the need for this Court's supervisory power, under US Sup Ct Rule 10(a), in order to maintain a uniformity of decisions on the same important matters of federal & general law among the federal Courts of Appeals ? /[1,2]

/[1,2] See (iv) ; (ii) & (iii) herein.

Foot Notes

fn.1

"Then there is a question of the 7th Amendment, and of which would boil over in the Federal Rules of Civil Procedure, as contained in the 1991 Ed., Supreme Court Rule No. 17.1, the Court's Original Jurisdiction, vs. The Courts Appellate. Then the facts of the courts original jurisdiction, exclusive to the people, did speak, and was placed into evidence." (emphasis added) see (A-24) Writ of Cert # 1 herein

cite: Warren E. Ensminger v The Farm Credit Bank of Wichita; First National Bank of Okeene; USCA 10th Cr Nos. 94-6415 & 94-6417 W.D. Oklahoma (D. C. Nos. CIV-94-1038-R & CIV-94-1040-R) Order and Judgment* Apr 07 1995 Before Anderson, Baldock & Brorby, Cir Judges;see 151 Federal Rules Decisions p. 470 1: In re Citation of Unpublished Opinions/ Orders and Judgments General Order.**

*"This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders & judgments; nevertheless, an order and judgment may be cited under the terms and conditions of the court's General Order filed November 29, 1993. 151 F.R.D. 470" (emphasis added) see (A-23) Wirt of Cert # 1 herein

Attached copy of said Order Writ # 2 herein or see (A-23,A-24 & A-25) Writ of Cert # 1 herein.

**"GENERAL ORDER: By this General Order the court suspends 10th Cir R. 36.3 from January 1, 1994,to December 31, 1995, or until further order of court. While the rule is suspended, citation of unpublished opinions and orders and judgments shall be governed by the following provisions:

Unpublished opinions and orders and judgments of this court are not binding precedents, except under the doctrines of law of the case, res judicata and collateral estoppel. Citation of these unpublished decisions is not favored. Nevertheless, if it is believed that an unpublished opinion or order and judgment has persuasive value with respect to a material issue in a case and would assist the court in its disposition, that decision-

may be cited, provided that a copy of the decision is attached to the brief or other document in which it is cited, or, if cited in oral argument, is provided to the court and all other parties.

During the pendency of this order, the court will evaluate the effectiveness of the provisions contained herein. The court invites interested parties to send written comments to the clerk of court. After evaluation, the court will decide whether the order should be vacated or its provisions should be incorporated into the rules of court."(emphasis added) USCA 10th Cir Nov 29,1993 before McKAY, Ch Judge, & LOGAN, SEYMOUR, MOORE, ANDERSON, TACHA, BALDOCK, BRORBY, EBEL & KELLY, Circuit Judges.

fn.2

A bonafide citation of an unpublished opinion, order, judgment was noticed to the USCA 3rd Cir as per 151 F.R.D. p 470/1 above fn.1 with respect to persuasive value to a material issue key to this case and the decision rendered is in direct conflict on the same important matters of federal & general law (nonuniformity of decisions among the Federal Courts of Appeals)!

cite: USCA 3rd Cir -Sur Petition for Panel Rehearing Order Aug 24, 2001-denied! see (A-1) Writ of Cert #1 herein

cite: USCA 3rd Cir -Opinion No. 99-3793 25 July 2000-USDC, MD Pa Affirmed;"Moreover, the Dist Ct did not abuse its discretion in denying the motion for clarification. As the District Court correctly concluded, the order dismissing the action was self-explanatory and, absent any futher request for relif, clarification was unnecessary.The Caterinas' request for reconsideration did not identify any reasons justifying relief from Dist Ct's prior order. Rather, the Caterinas contended that their petition for writ of cert, steming from a separate Dist Ct proceeding and pending in the US Sup Ct, somehow relieved them of the time requirements for effecting service. This argument is unpersuasive." see (A-20) Writ of Cert # 1 herein and Petition for Panel Rehearing USCA, 3rd Cir 6 Aug 2001 Sec (8)

Foot Notes cont.

If the above cited Parallel Case is found 'Res Judicata' in the USCA, 10th Cir., then why is not the Parallel Case herein Not 'Res Judicata' in the USCA, 3rd Cir. ?" see (A-14) (A-12,13) Wirt of C-ert # 1 herein

fn.3
per 151 F.R.D. 470/1; see/[1] (ii)(iii) herein.

fn.4
see (A-12,13 & 14) Writ of Cert #1.

fn.5
W.E. Ensminger v. Farm Credit Bank of Wichita; First National Bank of Okeene; USCA 10th Cir Nos. 94-6415 & 94-6417 W.D. Oklahoma, 7 Apr 1995; see/[1] herein (ii); see (A-23,24 & 25) Writ Cert #1; or attached copy of said Order Sup Writ #2 herein.

fn.6
see (A-1) Writ of Cert #1 or see (A-1) Sup Writ #2 herein.

fn.7
see (A-66) Writ of Cert #1.

fn.8
see fn.3 page (ii) Writ of Cert #1.

fn.9
see Federal Statutes page (2) Writ of Cert #1 FRCP Rule 4, Local Rule 4.1: process (within) 120 days.

fn.10
Article VI, cl. 2 Const. United States: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

LIST OF PARTIES

Condemnees, Petitioners:
Joseph R. Caterina and Frances H Caterina
Emmett Caterina and Clara Caterina, Pro Se
c/o 202 Kenyon Dr., Peckville, PA. 18452
phone (570) 489-8741 home, 489-6322 nights
petitioners represented if granted by:
Atty. _____

Phone ( ) FAX

Condemnors & Related Parties, Respondents

Atty. Harry T. COLEMAN, Esq., Atty. Edwin A. ABRAHAMSEN, Esq.,/ Abrahamsen, Moran & Conaboy, 205-207 N. Washington Ave., 2nd Fl., W.C. Carter Bldg., Scranton, PA.18503 Phone (570) 348-0200, Represents the following Respondents:
Blakely Borough, 1439 Main St., Peckville, Pa. 18452

Atty. (M. Colleen Foley CANOVAS)., Atty. Thomas J. FOLEY, Jr., Esq.,/Foley, McLane, Nealon, Foley & McDonald, P.C., 600 Linden Plaza, Scranton, PA. 18501-1108, Phone

(570) 342-8194, Represents the following Respondent:
Lackawanna County Redevelopment Authority, 200 Adams Ave., Scranton, PA. 18503

Atty. Elizabeth A. O'REILLY ID# 48519, Atty. Catherina A. FOLEY ID# 63814, Atty. Jose E. MORALES ID# 31890, for Dept. General Services; c/o 603 North Office Building, Harrisburg, Pa. 17125 and Atty. Gregory C. SANTORO, for General State Authority, Phone (717) 787-5599, Represents the following Respondents:
The General State Authority of PA and the Dept. of General Services of PA, c/o 603 North Office Building, Harrisburg, PA, 17-125; Phone (717) 787-5599

Atty. Mike FISHER Attorney General of PA., c/o Atty. Calvin R. KOONS Senior Deputy Attorney General Appellate Litigation Section, 15th Fl., Strawberry Square, Harrisburg, PA. 17120, Phone (717)783 -6709, Represents the following Respondents:
Commonwealth of Pennsylvania, Attorney General Office, 1515 Strawberry Square, Harrisburg, PA. 17108; FAX (717)772 -4526

Atty. Thomas B. HELBIG, Esq., 1000 Bank Towers Bldg., Scranton, PA. 18503, Phone 570) 346-7651/ Scanlon, Howley, Scanlon & Doherty, 321 Spruce St., Scranton, PA 18503, Represents the following Respondent:
Lackawanna County a non-Party
200 Adams Ave., Scranton, PA., 18503

Unified Judicial System of the Commonwealth of Pennsylvania c/o Supreme Court of PA., Rm. 434 Main Capitol Bldg., Harrisburg, PA 17120, Phone (717) 787-6181, Represents ? the following Respondent:
Unified Judicial System of the Commonwealth of Pennsylvania as per 42 Pa.C.S.A. § 301 Judiciary, Unified Judicial System, address unknown and no listed telephone or FAX.

Judge John Cottone, J. and Judge Walsh,? c/o Lackawanna County Courthouse Prothonotary: Cv No. 60046-1996, Equity; and In Rem No. 1976 Year 1993; Washington Ave., Scranton, PA 18503, Represents the following Respondent:
Lackawanna County Court System, c/o Lackawanna Courthouse, Scranton, PA., 18503 , Phone (570) 963-6752; (570) 963-6765

BASIS FOR JURISDICTION IN THE COURT

This Court's Jurisdiction is invoked under 28 U.S.C. § 1254(1). see (A-1) herein and (A-17) (A-22) Writ of Cert # 1

This Writ of Certiorari is pursuant to Supreme Court Rule 10(a), wherein the 3rd Cir. USCA has entered a decision in conflict with the decision of another United States Court of Appeals (10th Cir.) on the same important matters of federal and general law, as to call for the exercise of this Court's supervisory power, in order to bring about uniformity of decisions among the federal Courts of Appeals.

CONSTITUTIONAL PROVISIONS INVOLVED
CONSTITUTION OF THE UNITED STATES

FOURTH AMENDMENT: The Right of the People to be Secure in their persons, houses, papers, and effects, against unreasonable search and seizures, shall not be violated.

FIFTH AMENDMENT: Nor be deprived of Life, Liberity, or Property without due process of law.

SEVENTH AMENDMENT: In suits at Common Law where the value in controversy shall exceed Twenty dollars, the Right of Trial by Jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, than according to the Rules of Common Law.

NINTH AMENDMENT: The enumeration in the Constitution of certain rights, shall be not construed to deny or disparage others retained by the people.

TENTH AMENDMENT: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

FOURTEENTH AMENDMENT: . no state shall . deprive any person of Life, Liberty, or Proporty, without due process of law; nor deny . . the equal protection of the laws.

ARTICLE IV. SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State . . .

FEDERAL STATUTES

28 USC § 1738 : full faith and credit.
FRCP Rule 4, Local Rule 4.1:process 120 days
FRAP Rule 2: Suspension of Rules, title 1
151 F.R.D. p 470/1:cit unpublished decisions

DOCTRINES OF LAW

RES JUDICATA; COLLATERAL ESTOPPEL; OF CASE

DECISIONS USCA CONFLICTING

W.E. Ensminger v Farm Credit Bk of Wichita; 1st Ntl Bk of Okeene; USCA 10th Cir Apr 7, 1995 Nos 94-6415 & 6417 W.D. Oklahoma Un.Pu. Caterina v Unified Judical; USCA 3rd Cir 24 Aug 2001 No. 99-3793 Un.Pu.;(99-3689,3690)-interconnected appeals; US Sup Ct#00-1390 denied 6 Aug 2001 (2) see (A-103)Writ Cert #1

STATEMENT OF THE CASE

The Appellate Court was put on notice/3 by Petitioners in their Petition for Panel Rehearing/4 concerning a parallel case decision in USCA 10th Cir./5 in which that Appellate Court upheld the doctrines of law of the case, res judicata, & collateral estoppel under the 7th Amendment, FRCP & US Sup Ct Rule 17.1. That judgment had persuasive value with respect to the key material issue in the case herein and the USCA 3rd Cir. rendered a decision contrary to the USCA 10th Cir cited decision/6 by denying reconsideration.

By ignoring the USCA 10th Cir decision, the Appellate Court (3rd Cir.) has in effect suspended FRCP Rule 38(a) Jury Trial Right and the 7th & 4th Amendments, U.S. Const./7

Under the good cause shown FRAP Rule 2/8 should have been asserted by the Court to suspend FRCP Rule 4 and Local Rule 4.1/9 so as not to have obstructed the asserted Constitutional Rights of the Petitioners as Rules must be made "in Pursuance" of the U.S. Const./10(see Art. VI, cl. 2 therein.)

The USCA 3rd Cir was confronted with why the Case herein was not 'Res Judicata' as per the cited USCA 10th Cir. case/2 which decision was in conflict. see (iv) end fn.2

Lost to Petitioners were their perfected Constitutional Rights because of a direct conflict of Appellate Court decisions. see (i)

ARGUMENT

The Appellate Court (3rd Cir) was asked in a Petition for Panel Rehearing; "If the above cited Parallel Case is found 'Res Judicata' in the USCA 10th Cir., then why is not the Parallel Case herein Not 'Res Judicata' in the USCA, 3rd Cir. ?/[2] (iv) end; see (A-14) (A-12,13) Writ Cert #1

Petitioners' reference was made to W.E. Ensminger v. Farm Credit Bank of Wichita; First Ntl Bank of Okeene; USCA 10th Cir Nos 94-6415 & 94-6417 Apr 7, 1995 Un. Pu./[1] herein (ii) as attached herein (151 F.R.D. 470); see (A-23,24 & 25) Writ Cert #1

The Third Circuit was silent and denied Reconsideration! see (A-1) herein or (A-1) Writ of Cert #1.

In this conflicting decision, the 3rd Cir. suspended the 7th Amendment, FRCP Rule 38(a) Jury Trial Right and the protections of the 4th Amendment as the Petitioners are being restrained w/o probable cause, proper service or jury trial and Ex Parte, from their own property by a court that lacks jurisdiction!

Petitioners' Constitutional Rights, as perfected, were lost; as the doctrine of exhaustion was obstructed, due to the non-uniformity in Appellate Court decisions, as Constitutional Rights vary depending on regions within the United States! see (A-58) Wirt Cert #1 Nihil Dicit Judgment.

Without uniformity in the decisions of the U.S. Courts of Appeals, Constitutional Rights are arbitrary and capricious and only have merit within certain Circuits of our judicial system and not others! This cannot be.

Petitioners are without fundamental doctrines of Federal Law and General Law such as collateral estoppel whereby they are permanently restrained from their own property without due process, without trial by jury under FRCP Rule 38(a) and without the protections of the doctrine of Res Judicata and Law of the Case.

The Right to Trial by Jury is absent! If Federal Rules of Civil Procedure are used to obstruct asserted Constitutional Rights, not to protect them then no one's property is safe and Court decisions are of little or no value on the Appellate level because conflicting decisions cannot be relied upon!

Litigants and Lawyers are damned if they do & damned if they don't and are caught in the middle, because of conflicts in Appellate Court decisions that are not uniform!

CONCLUSION

The supervisory power of this Court be exercised under US Sup Ct Rule 10(a) so as to continue uniformity of decisions on these matters among the federal Courts of Appeals./[1,2]

Petitioners 2/02/02
Joseph R. Caterina
Frances Caterina
Emmett Caterina &
Clara Caterina(deceased)
All in Pro Se.

Respectfully submitted

Joseph R. Caterina, In Pro Se

Frances H. Caterina, In Pro Se

Emmett Caterina, In Pro Se

Clara Caterina (deceased 6/30/01,

Date: 2 February 2002

Note: Please be advised should the Court grant said Writ requiring further presentation or oral argument that we will make every effort to be represented by Counsel.

Thank you

Original Signatures

APPENDIX

PETITION FOR A WRIT OF CERTIORARI
SUPPLEMENT

Writ # 2

No. 99-3793
Appeal Order 24 Aug 2001
USCA, 3rd Cr.

SUR PETITION FOR PANEL REHEARING
(denied)

(A-1)

Note:

Please use the same appendix and index to appendix in Writ # 1 filed 21 Jan 2002 that appealed:

Order 25 July 2001
USCA, 3rd Cr.
No. 99 - 3793
(denied)
(A-22)(A-17,21)

US Sup Ct No. _____

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THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 99-3793

Joseph R. Caterina, Frances H. Caterina, Emmett Caterina, Clara Caterina,

v Appellants

Unified Judicial System of the Commonwealth of Pennsylvania and Related Parties; Lackawanna County Redevelopment Authority; PA. General State Authority; Blakely Borough

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Before: ALITO, AMBRO, and ROSENN Cir. Judges

SUR PETITION FOR PANEL REHEARING

The petition for rehearing filed by Appellant having been submitted to the judges who participated in the decision of this Court and no judge who concurred in the decision having asked for rehearing, the petition for panel rehearing is DENIED.

BY THE COURT:

s/s D---- L. Ambro ?
Circuit Judge

Date: Aug 24 2001
LMC/cc: Mr. JRC
Ms. FC
Mr. EC
Ms. CC
TBH

(1)

* see (A-2) Writ Cert #1

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543-0001

William K. Suter
Clerk of the Court

Area Code 202
479-3011

January 28, 2002

Joseph R. Caterina
202 Kenyon Drive
Peckville, PA 18452

Re: Caterina, et al. v. Unified Judicial System of PA No. 01A286

Dear Mr. Caterina:

Your petition for writ of certiorari in the above-entitled case mailed from Peckville, Pennsylvania on January 18, 2002, was received January 24, 2002, and must be returned since you have plastic covers on the petition which is prohibited by Rule 33. Also I do not find that a check in the amount of $ 300 was included with your petition.

Please remove the plastic covers from the petitions and return them to this office immediately with a check in the amount of $ 300.00 so that the case may be placed on this Court's docket.

Sincerely,
Wm. K. Suter, Clerk
By: s/s
Francis J. Lorson
(202) 479-3024

Enclosures
cc: Mike Fisher

Reply: 8 Feb 2002

Dear Clerk Francis J. Lorson:

As per your instructions I have removed all plastic covers & removed the wire binding on eleven of writs submitted.

Also! find ck# 7702 in amt. $ 300, this being the second check as ck# 7683 in amt. $ 300 was submitted on correspondence dated 16 January 2002!

Also! inclosed find Sup to Writ (Order 24 Aug 2001) 40 copies + org. and Proof of Service. Thank you

Joseph R. Caterina s/s
(570) 489-8741 machine
489-6322 parents

Incls: ck 7702 $ 300
Sup Writ 40 + 1 org
Prof Ser Sup Writ

FILED
United States Court of Appeals
Tenth Circuit
APR 07 1995
PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

FILED
APR 10 1995
ROBERT D. DENNIS, CLERK
U.S. DIST. COURT WESTERN DIST. OF OKLA
BY _____ DEPUTY

WARREN E. ENSMINGER,

Plaintiff-Appellant,

v.

THE FARM CREDIT BANK OF WICHITA; FIRST NATIONAL BANK OF OKEENE,

Defendants-Appellees.

Nos. 94-6415
94-6417
W.D. Oklahoma
(D.C. Nos. CIV-94-1038-R and CIV-94-1040-R)

DOCKETED

ORDER AND JUDGMENT*

Before ANDERSON, BALDOCK, and BRORBY, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

Warren E. Ensminger appeals the dismissal of his actions, characterizing the actions as follows:

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of the court's General Order filed November 29, 1993. 151 F.R.D. 470.

BEST AVAILABLE COPY

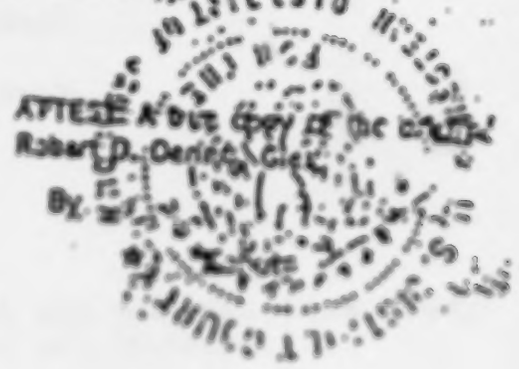
> This action was instigated to determine who has the highest title to property located in [Major and Grady] county, Oklahoma Territory state, of which the United States of America by contract, gave up all right, title or interest in said property, without any conditions set forth; and it is very clear by the defendant's pleadings that it is not that entity that is claiming the property, Mr. Butler for Federal Land Bank clearly stated that the claim is the United States, and that Federal Land Bank and First National Bank in Okeene are not of the United States of America. Mr. Elliott's pleading for First National Bank in Okeene, plead the resident scam, and didn't object to the Federal Land Bank claim. Then there is a question of the 7th Amendment, and of which would boil over in the Federal Rules of Civil Procedure, as contained in the 1991 Ed., Supreme Court Rule No. 17.1, the Court's Original Jurisdiction, vs. The Courts Appellate. Then the facts of the courts original jurisdiction, exclusive to the people, did speak, and was placed into evidence.

Appellant's Opening Briefs at 1.

Upon review of the records and arguments of the parties, the judgment of the district court is AFFIRMED. The mandates shall issue forthwith.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge



UNITED STATES COURT OF APP S
TENTH CIRCUIT
OFFICE OF THE CLERK
BYRON WHITE UNITED STATES COURTHOUSE
1823 STOUT STREET
DENVER, COLORADO 80257
(303) 844-3157

ATRICK FISHER
CLERK

BETSY SHUMAKER
CHIEF DEPUTY CLERK

April 7, 1995

Mr. Robert D. Dennis
Clerk
United States District Court for the W. District of Oklahoma
United States Courthouse
200 N.W. Fourth
Room 3301
Oklahoma City, OK 73102

Warren E. Ensminger
Route 1, Box 1D
Lahoma, OK 73754

Mr. David C. Butler
McNight & Gasaway
201 N. Grand
P.O. Box 1108
Enid, OK 73702

Mr. C. L. Elliott
Mr. Brian N. Lovell
Elliott, Enabnit, Newby & Ezzell
114 E. Broadway Avenue
Suite 500, P.O. Box 5589
Enid, OK 73702

Attest: True and Correct
Copy Of Original
Pro Hac Vice or Necessity

Re: 94-6415, Ensminger v. Farm Credit Bank
Lower docket: CIV-94-1038-R,
94-6417, Ensminger v. Farm Credit Bank
Lower docket: CIV-94-1040-R,

Dear Mr. Dennis, Mr. Ensminger, and Counsel:

The court's order and judgment was filed in the subject case today. A copy of the order and judgment is enclosed for all parties.

In accordance with Fed. R. App. P. 41, I enclose for the clerk of the trial court, or for the named agency, a certified copy of the order and judgment, which constitutes the mandate. By direction of the court, the mandate shall be filed immediately in the records of the trial court or agency.

The clerk will please acknowledge receipt of this mandate by file stamping and returning the enclosed copy of this letter. Any original record will be forwarded to you at a later date.

BEST AVAILABLE COPY